PF 56 of 94

G. R. S. IX-5]

Previous references. 1893-94

~~192~~

(L.R.)

File No. 107 of 93

Serial Nos. 1-8

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-8

Major ~~Part~~ B for October 1894

SUBJECT.

Dispute of Timmaraya Iyengar regarding the Shanbhogi of Bhantrahalli Fika Hassan Taluk

---

Indexed

WD 2233—6PB—20,000—14-6-20

He died in the Cast
Salais in June belonging
being a portion of a Tipa
Country of the Tuna
Villages.

The Original Grandad
of the ancestor
of Nanjappa
Maternal Grandfather of
Kunhi (deceased) the first
was at the beginning - between
in the Family of Mamiyo
Cotton Kaikattanayaka
Chief Minister for the Ajuvalu
Ajuvalu in 1838-39 In
1843 for the was deceased
and a Stranger in Tuna
Kunhi was appointed
Ajuvalu Chief in Attacca
the Chiefs in Cannada
the Kuti Ajuvalu

N—
In 1838-39 Nanjappa Chetty
Regentar

addd
Ann
Vaillatraik
Grandad
Grandmother

Ramachandra
Married in 1843.
Died in 1850

9 Villages—

5 Villages to Venkatachi—
Eldest Male
Grandmother
Ramachandra—
30 Sept. 1855
Married in 1861
Was born in 1865

In 1879
Died
made
Villages
Surrender

1843

In 1895 +

Circt. Ct. San Mateo Co.
Nos. in Intervention and
after Mun. Ins. Matter.
Mandamus. Mun.
Mandamus was
decided in 1885
and the Defendant
(Appellant) appealed
for the 4 cases.

In the year
1877, Mandamus
June 5 and 9 the same
Judge (not in dispute)
to Alameda, Austin Butler
& Plaintiff, and 4 Ins
Com. Pres and Sec. Alameda
to Law in Intervention
of the Mun. of these
five cases.

In 1873-74, Plaintiff

3

Compl a suit against
Nuisance for
the use of the water
ways and it was
dismissed on the
ground that it was
barred by limitation

Plaintiff has
now brought the suit
in the Court of the
4 villages against the
Defts affected in 1885.

Defts plead
(1) the suit is res judicata
by reason of judgment
in O.S. No 33 of 73-74 in
the file of the Court
(2) it is barred by limitation
Pltf's family has
been out of use
since 1843

The Defts is not
the representative of
Narasimmayya and
he did not get the
office through him.
He was appointed after
his dismissal. As the
parties are different
in the two suits the
previous judgment cannot
operate as res judicata.

A suit for an
hereditary office is
barred when the Defts
has been in adverse
possession for 12 years.
The defendant in this
case was appointed
only in 1885 and
the suit was brought
in 1891. But the right
the Pltff may be considered to
have been extinguished in favour of the Defts

5

Appeal No 25 of 1853-54

Appt

Tirunarayanayyar
of Vantarkalli
Tessandaleg
represented by
his Chalavayyar

Respt

Krishnayyar
represented by
his V Srinivasayyar

This is an appeal against the Decree of the Dist Court of Tanjore adjudging to the Respt the Shanbhogi right of the 4 villages noted in the margin.

The facts of the case are as follows.

Respts brother Venkataramiah was the registered Shanbhogi of 4 villages in 1838-39. His natural father Ramaia who was acting as Gumastah Narasappa having embezzled Govt money was dismissed from office in 1843, & one Ramia appointed in his place. There is nothing to shew that Ramia was appointed merely as a gumastah. Ramia who was in possession of all the 9 villages in 1850, made over 5 villages to Respts brother Venkataramiah, retaining the other 4 now in dispute in his own possession. In 1856

~~The Court of~~

Although, it facts above mentioned
which ~~were~~ admitted by both the
parties at the hearing, ~~the~~
~~Dy Com has stated~~
~~in his Judgment~~
that the Respts family
never had possession of the
4 villages under exclusive sense
1843, the Dy Com states
in his judgment that the
4 villages were given by Resp
father Appaji to Appellants
predecessor Narasimha in
1879 & that since
Narasimha was removed
Resp. was left entitled to
enter into the office. The Dy
Com's statement is incorrect.
It was not Appaji that gave the
villages to Narasimha, but it was
Narasimha, who had possession of
9 villages, that gave 5 out of them

to appear in December
1879. ~~Whatever~~ ~~might~~ ~~have been~~ the right of
Respdt's brother Venkataramiah
~~to the~~ up to 1856, he
clearly lost it in that year
when he was dismissed &
~~thereby~~ what his brother
Appajya even claimed
was ~~the~~ to 8 sept.
Thus Respdt's family have
been ~~clearly~~ in possession
for upwards of at least 35
years, & Respdt is clearly
barred by the Laws of Limitation.
There is nothing to show that
Ramaiah or his successors
held the office in trust for
Respdt. Nor do the
decisions or the pre revenue
& Board dismissed

28/9/04

Draft 1/10/04

Venkatarameah was
dismissed from office, &
Rameah appointed as
Sirnaoota. Then Rameah
again came into possession
of all the 9 villages. Rameh's
son Narasimhaya made
over 5 of the villages
which his father Macrea in
1856 & another brother of
Respt named Appajiah
in 1879 [redacted] Reddy
[redacted], the other
4 villages [redacted] suits in dispute
[redacted] in the
own possession. Narasimhaya
was dismissed in 1885 & [redacted] appt
[redacted] a stranger
was appointed to the [redacted] Respt
brought a suit in July 1891 for
the Recovery of these 4 villages
on the ground that he was the
original Hereditary & the Dy Court
Decree decreed in his
favor —

Appajiah [redacted] a suit
[redacted] on behalf
of Lessor.

Appajiah is able in
possession of the 5 villages
transferred to him in 1879
& there is no dispute
regarding them.

4 villages which
Narasimhaya Mortgaged.

(1)

General Serial No. 82.)

1894.

No. 2765

Name of Petitioner. Narasimhachar
with Thumbay

Village. Bhumitthally

Taluk. Hiriyur

District. Do

Date of Arzi. 8-3-94

Date of Receipt. 20-3-94

Date of Disposal.

No. of Enclosures. Nil

ABSTRACT.

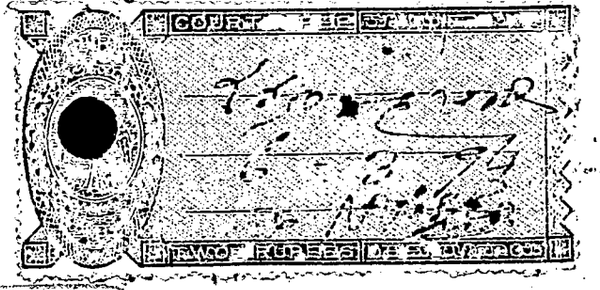
States that he was dismisse
from his office in some embez
ment case, & prays therefore, as h
provides for it, that his son may be
appointed as Thumbay in lieu of hi
& the work may be taken from a Gum
during the minority of the son.

20/3.

LR 10793-1

2/4/94.

Recd from D.H.C.
20-3-94



10 12

MYSORE DEWAN'S OFFICE.
PETITION DEPARTMENT.
REG'D. NO. 2766 R
DATE 21-3-94

To
His Highness Sri Chamarajendra Wodeyar Bahadur Jnanendra Bhatia Maharaja of Mysore Province
Mysore

Most respected Sir.

I, Narasimhachar, the late Shanbogue of Bhantha
pirka in the grama Koditi, Hadinaru taluk, request your noble
kindly and respectfully as follows. The shanbogueship of
Bhantharli pirka is my hereditary property. I was falsely
guilty for squandered the government Rumalayam, and I
lost my shanbogueship. One, Nimmarayanaiyangar who
is not the lawful heir of the shanbogueship was granted
as a shanbogue of my pirka. But as this time I was not able
to appeal. I gave an application to the Deputy Commissioner
of Tiptur District to appoint my grandson as a shanbogue
Although there is a law for to give the hereditary posts to
the sons or nephews of a guilty person, and that law is in force
in this province yet unfortunately I was ordered that my
son could not get the shanbogueship for the present on
22nd February 94. I therefore give Honour most humbly and
respectfully to restore unto the shanbogueship of my pirka to
my grandson Sreekantaiah and to take the work by a Gumasta
Krishnaiyangar of Amruga in my son's minority. Hoping
this Kindness I ever pray for your long life and prosperity

Yours
Dated the 10th March 1894

Amruga

Obedient to Command his
poor most Obedient servant
Sd/- [illegible]
Son of Ramaiyangar of Amruga
and late Shanbogue of Bhantha
pirka. Amruga, Hassan

(General Serial No. 32.) 11 (2)

1894.

Appeal in a regular suit

Do Time

Stamp sufficient

Call for Proceedings

Issue Notice & list for hearing

Posted 6-9 September

24/8/94

L.R. 107 93-2

Proper

JWR 27/8

Notice issued

28/8/94

No. 259

Name of Petitioner. Lingarajaiah

Village.

Taluk. Bangalore

District.

Date of Arzi. 21-7-94

Date of Receipt. 24-7-94

Date of Disposal.

No. of Enclosures. Nil

ABSTRACT.

Appeal against the judgment of the Deputy Commissioner, Hassan Distt in Revenue Suit No 60/1891-92, in re the Thanbhoge office of Bhuvanahalli Firka

The judgment & the grounds of appeal are in English.

Prays that the judgment of the Deputy Commissioner may be reversed & the Plaintiff's suit may be dismissed with costs

HWH 27/8

No. Pet. 284

23-8-94

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

The accompanying Petition No. 259

dated 21 Aug 1894 received at the Dewan's Office from [illegible] by advocate M. T. Chikkaveeraiya appealing agt the decision of the Asst. Commr. Hassan dt. in Revenue suit No. 6 of 1891-92 regarding the Channapatna Shanbhogaship is forwarded, together with its one enclosure, to the Asst. Commr. Hassan District, for submission of the entire proceedings connected with the case as at present the petition or letter of appeal is not forwarded.

2. The petition with the enclosure should be returned.

By Order,

Bangalore, 22/8/1894. 22/8

Chief Secretary.

22/8

13

(General Serial No. 30.)

1894.

2534
31 AUG 94
Pet: 152

From

The Dy Commissioner,
Hassan District.

To

The Chief Secretary to the Dewan
of Mysore.

Dated 29th August 1894.

Despatched

Received

Enclosures No. Petition & its enclosure and Records. in one parcel.

General No. 158
No. dary

This memo no 284 Dated 22d. Instant. forwarding Timmanniya's petition and calling for submission of the Records of the case.

Has the honor to forward herewith the entire Records together with the enclosures of the memo.

Dy Commissioner
Hassan District

Rec: 2nd Dy. 6 of 1891-92

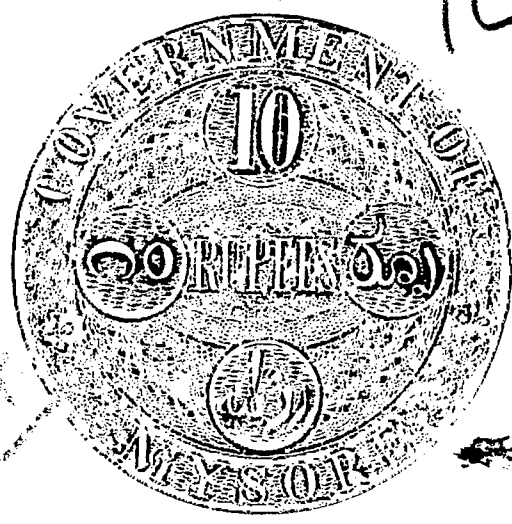
The Records received should be Entered with the Petition and the Petition engaged to and the whole arranged so as open file and laid before the 9th Inst Sir,

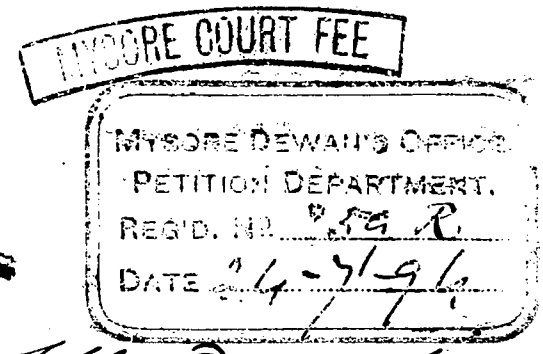
Attended to. Sir

L.R. 107

Pet 31/8 30/8

14 (2)





In the Court of the Dewan of
A.S. No. 5 of 1894-95 on the
Revenue Appeal No. of
1894-95.
In the Court of the Deputy
Commissioner Kolar
District
Revenue Suit No. 67 of 1891-92

Thimmanna	In the Lower Court	Plaintiff Appellant
Iyengar	Defendant	Respondent.

Vs.

Krishna Iyengar. Plaintiff Respondent.

The abovenamed appellant has appealed to this Honorable Court against the Judgment of the Deputy Commissioner Kolar District in the above suit Dated the 23rd of April 1894 for the following amongst other grounds:—

1. That the Kirka known as Bhanka Kally Kirka formerly consisted of nine villages.

2 That one Narayanappa [illegible]

the jackaya Sidambi [illegible]

that Kirk

3 That Venkata Ramayya the adopted son of the said Narasabhayya was registered as the Shanbhogue of the said Erika in 1838–39, on account of the said Venkata Ramayya's minority Narsimhayya the natural father of the said Venkata Ramayya was appointed Gumasta.

4 That in 1843, the said Narsimhayya was found guilty of misappropriation of Government money, and was dismissed from the office.

5. That one Ramayya was then appointed Shanbhogue of the said Erika

6 That the said Ramayya continued as the Shanbhogue of the said Erika till 1850, when he made over by consent for exchange of the aforesaid nine villages to the aforesaid Venkata Ramayya.

7. That in or about 1856

Venkata Ramayya was absconding

guilty of embezzlement, and that

the said five villages again reverted

to the said Ramayya.

8. That the said Ramayya whilst

the Shanbhogue of the whole Sirka

died in 1861; and that the office was

conferred on his son Venkatappayya.

9. That the said Venkatappayya died

in 1865; and that the office was

conferred on his younger brother

Narsimhayya.

10. That the said Narsimhayya

continued as the Shanbhogue of

the said Sirka till 1879, when he

was induced to make over to Appaji

the natural brother of the said Venkata

Ramayya the five villages, which

Narsimhayya's father had received

of Venkata Ramayya.

11. That the said Narsimhayya continued

as the Shanbhogue of the remaining

four villages till 1885, when he was

convicted of a criminal offence, and

the defendant was appointed in

his place.

12. That the defendant has been

satisfactorily discharging the duties

of the office

since 1885.

13. That the Plaintiff who is a natural brother of the said Venkeka Ramayya filed this suit 1891 for the recovery of the office of Shanbhogy of the said four villages from the Defendant herein; and that the said suit was decreed in his favour by the Deputy Commissioner.

14. That the Plaintiff has no right to recover the said office.

15. That the Plaintiff's natural brother Venkeka Ramayya who was Hereditary Shanbhogue ceased to be the Shanbhogue of the said four villages in 1843.

16. That in 1843, the office was conferred on a stranger by name Ramayya.

17. That since then the said Ramayya and his sons were Shanbhogues till at last Narasimha one of the sons was dismissed in 1885.

18. That the 16 Kolar Venkata Ramayya reported to the Office of Shanbhogue of the said four villages was extinguished by lapse of time, as it was in the adverse possession and enjoyment of strangers for upwards of 50 years.

19. That the suit which had been filed by the Plaintiff ~~himself~~ in ~~the~~ for the reasons of the said office was dismissed in 1873-74, and that the present suit is therefore barred as Res judicata by reason of the Judgment of the Deputy Commissioner dated 29th March 1874 in Revenue Suit No. 334 1873-74.

For the above reasons the abkellant respectfully prays that this Honorable Court may be pleased to reverse the Judgment of the Deputy Commissioner, & dismiss the Plaintiff's suit with costs.

D. Bangaree Chetty
21st Jan 1943 Advocate

Gen. Serial No. 32.]

189

No. 838

Name of Petitioner. [illegible]

Village.

Taluk. Bangalore

District.

Date of Arzi. 20-9-99

Date of Receipt. 20-9-99

Date of Disposal.

No. of Enclosures. 1

ABSTRACT.

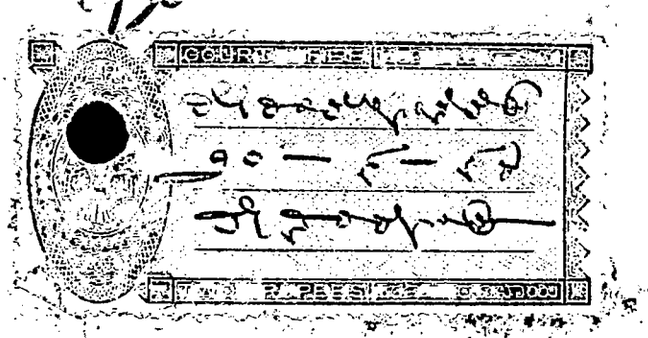
[illegible]

Two rupees
Stamp affixed

Exc: 1 [illegible]
10-11-94

Petition No 25 of 1894

(5)



In the Court of the Commissioners to
H.H. The Maharaja of Mysore.
at Bangalore.

MYSORE REVENUE DEPOT
RETURNED TO PARTY
REGD. N. 8582
DATE 20-9-94

Appellant
Srinivasayyangar
s/o [illegible]

Respondent
Srinivasayyangar

Applicant: Narasimhaiyar, late Shanbogue
of Bhandarahalli, Channa Taluk, Hassan District

The applicant in reply to the Endorsement
No. 2760 dated 28th March, 894, begs to produce herewith
2nd April
the Endorsement granted to him by the Deputy Commissioner
of Hassan upon his application to him to Establish
the right of his minor son to the Shanbogike now
in dispute.

2. He has good many records which go to show
that he is the hakkadar of the Shanbogike now in dispute.
He was dismissed from that office, because he was
convicted of a criminal offence. He has however a minor
son who may be registered the hakkadar. The conviction
of the father is no bar to the registration of the son as hakk

3. The above appeal comes off for hearing
on the 22nd instant. The applicant has many records
to produce, the copies of which, much be obtained.

He therefore prays that this application
may be disposed of until the above appeal and that
adjournment may be granted to him, to get the copies.

Bangalore, 20th September 1894.

[illegible]
Advocate for the
Applicant

21

Before the Honorable councillors
of the Govt. of His Highness
the Maha Raja of Mysore
Bangalore

Rev: apl suit no 259 of 1894-95

appellant Respondent.
Iremaraiengar Krishnaiengar
(Deft) (Plff)

The Plff Respondent
above named Krishnaiengar
most respectfully begs to state
as follows: —

The appeal against
the decree of the Deputy Coun-
of Hassan, in Rev: suit No 6
of 1891, was heard in council,
yesterday, & the court was
inclined to think that the
suit was barred by Limitation.

The Respondents counsel
contended that the suit was
not barred & that the appellant
had no right whatever to
remain in office.

As the Petitioner believes
that

that the case was not properly explained, he begs to submit the following points for consideration before any decision is arrived at in the case.

It is obvious from the auditor's report, dated 12th May/71, that Ramiah was appointed in 1843 as Gumasta for brothers Venkata-Ramiah (then a minor). On Ramiah's death in 1861, his son Venkatappiah was put in his stead & on his death in 1866, his younger brother, Narasimhiah was appointed. He remained in office till 1883, when he was dismissed on conviction for a serious criminal offence. Thus it will be seen that these individuals were appointed only as Gumastas presumably from the terms of the original order of 1843, embodied in the auditor's report above referred to.

In thus appointing strangers the Government virtually acted as trustees & protectors of the hereditary rights of huckdan, and the appointments so made by the Government cannot prejudice their hereditary rights. On the other hand the Govern=ment was in justice bound to restore the Petitioner to his huck, when the office became vacant in 1885, as provided in para 5 of the late chief commissioner's General Circular No 5 of 1872, Order No 927 of 18th March 81, and the order No 21 of 28th October 1881. But the then Deputy Commissioner rejected the Petitioner's claim & appointed the Defendant (a stranger) on the simple ground of Petitioner's inability to furnish security as called for & finally confirmed the appointment of the Difendant in 1887.

Published in Rev: Manual Page 269 & 272

Thus commenced the real cause of action for the Petitioner to file this suit, which

which he died in September 1890.

Your honors are aware that the Limitation, in cases "for Possession of an hereditary office", begins only "when the Defendant takes possession of the office adversely to Plaintiff" Vide, Art. 124 of the 2nd Schedule of the Indian Limitation act. So that, it will be seen, that as between the Plaintiff and Defendant in this suit, it is barely more than 4 years from the date of Defendant's possession up to the date of suit. Thus it is perfectly clear that Plaintiff's suit is not barred.

Now as regards the merits of the case, if the Honorable Councillors are not satisfied from a perusal of the long & laborious records of the case, as well as by the clear admissions of the Defendant as contained in his sworn testimony before the Deputy Commissioner, that the Petitioner

is

is the sole surviving husband
of the suit villages - his
two brothers appajiraya
& Venkatramanaya being
dead long ago - Petitioner
prays that, in view to a better
elucidation of the facts
above stated, the case
may be reposted for a
further hearing in the
interests of justice if necessary

And for which act of
justice & generosity the
Petitioner will ever pray.

O Krishnaswamy
Counsel for Petitioner

Dated 23rd September 1894

Bangalore
[illegible]
Respondents

2a (6)

L.R. 107-93-6

Appeal No 5 of 1894-95

Appellant
Timmarancingar
of Bhantanhalli Muttige
Hassan Taluk
represented by
Mr Cheluvaiyangar
Advocate.

Respondent.
Krishnaiengar
represented by
Mr B. Srinivasaiengar.

Decision, 29th Sept. 94.

This is an appeal against the decree of the Deputy Commissioner of Hassan, adjudging to the Respondent the Shanbhogi right of the 4 villages noted in the margin.

The facts of the case are as follows:—

Respondent's brother Venkatramaiya had the Registered Kaledar Shanbhog of 4 villages

× 1. Muttige
2. Dhanaikanhalli
3. Nirihalli
4. Bhantanhalli

in 1838-39. His natural father,
Lanasappaiya, who was acting
as gumasta of his minor
son Venkatāramaiya, having
embezzled Government money,
was dismissed from office
in 1843, and one Ramaiya
appointed in his place.
There is nothing to show
that Ramaiya was appointed
merely as a gumasta. Ramaiya
was in possession of
all the 9 villages, but
over 5 villages to Respondents
brother, Venkatāramaiya in
857, retaining the other 4,
ow in dispute, in the
possession. In 1856, Venkata-
ramaiya was dismissed
rom office, and Ramaiya
appointed as gumasta,

probably on behalf of Lucia.
Thus Ramaiya again came
into the possession of all the
9 villages. Ramaiya son,
Narasimhaiya made over the
5 villages which his father
obtained in 1856, to another
brother of Respondent named
Appajaiya in 1879, keeping
the other 4 villages, now in
dispute, in his own possession.
Appajaiya is still in
possession of the 5 villages
transferred to him in 1879,
and there is no dispute
regarding them. Narasimha
was dismissed in 1885, and
Appellant, a stranger, was
appointed to the 4 villages
which Narasimhaiya then
held. Respondent brought

was better entitled to hold the office. The Deputy Commissioner's statement is incorrect. It was not Appajaiya that gave the 4 villages to Narasimhaiya, but it was Narasimhaiya, who had possession of 9 villages, and who gave 5 out of them to Appajaiya in December 1879. It is this mistaken notion of the facts by the Deputy Commissioner, that led to the erroneous decision appealed against. Whatever might have been the right of Respondents' brother Venkatramaiya up to 1856, he clearly lost it in that year

when he was dismissed,
and what his brother
Appajaiya since obtained
was by gift. Thus, the
Respondent's family have
been out of possession
for upwards of at least
35 years, and the suit
is clearly barred by
the Law of Limitation.
There is nothing to show
that Ramaiya or his
successors held the office
in trust for Respondent.
The Deputy Commissioner's
decision is, therefore, reversed
and the suit dismissed.

16.1.94

By order

Redraft

24/10

Jr Chief Secretary

Copy/

a suit in July 1891 for the recovery of these 4 villages, on the ground that he was the original Patadar, and the Deputy Commissioner decreed in his favor.

29

Although the facts above mentioned, which were admitted by both the parties at the hearing, show that the Respondents' family never had possession of the 4 villages under dispute since 1843, the Deputy Commissioner states, in his judgment, that the 4 villages were given by Respondents' brother Ghanjira to Appellants' predecessor Ranasinhaji in 1879, and that since Ranasinhaji was dismissed, Respondent

3 ✓ No. 7262 ✓
Pat. 56-94

Copy of the above is forwarded to the Deputy Commissioner, Kanara District, with the records received with his docket-No 158, dated 29th August 1894.

By Order

Chief Secretary.

S.V.

Pendra abstract
ef 30/11 Memo

No. 259
A.S.S.

L.R. 107-93-7
33

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT,

October 1894

Endorsement granted to Timmarayanigar of Hunthge, Hassan Taluk, represented by Mr. Srinivasaiyangar Advocate,

in reply to his Petition Registered No. 259 dated 21st July 1894, appealing against the Hassan A.S.S. Deputy Commissioner's decision in Rev: A.S. No 6 of 1894-95, regarding the Shanbhogi of Hunthge and 3 other villages.

Petitioner is informed that the decision of the Deputy Commissioner has been reversed and the suit dismissed.

2. His enclosure is returned.

"By Order"

Chief Secretary.

Draft
(Council order)

M, G. O. P. Bangalore—6-8-94.—2000.

No. 858

L.R. 107-93-8

34

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT,

October 1894

Endorsement granted to Narasimhachar, late Shanbhog of Bantahalli, Hassan Taluk, represented by Mr. B. Ramanna, Advocate.

in reply to his Petition Registered No. 858 dated 20. 9. 94 claiming the Shanbhogi of Mattige and 3 other villages and praying, that his petition might be disposed of with Appeal Suit No 5 of 94-95, Sirumaramiyar & Krishniyar regarding the Shanbhogi of the same villages.

Petitioner is informed that he is required to establish his right, if any, by a regular suit.

2. The enclosure is returned.

"By Order"

Draft (Council order)

Chief Secretary.

M. G. C. P, Bangalore—6-8-94.—2000.